

THE HONOURABLE SRI JUSTICE B.PRAKASH RAO

AND

THE HONOURABLE SRI JUSTICE M.VENKATESWARA REDDY

W.P.No.14577 of 2000

ORDER: (per BPR,J)

Heard Sri R.Chandrasekhar Reddy, learned counsel appearing for the petitioner and Mr.K.Santhanam, learned counsel appearing for the respondents R.5 to R.9 and the learned Government Pleader for R.4.

The petitioner is a society filed this writ petition *inter alia* seeking for a Certiorari assailing the orders passed in L.G.C.No.57 of 1994 dated 13-2-2000 on the file of the Special Court under A.P. Land Grabbing (Prohibition) Act (for short 'the Land Grabbing Act'), Hyderabad dismissing the application filed by it originally against the respondent No.2 who subsequently died and on respondents 5 to 9 having been brought on record as his legal representatives to declare each of them as land grabbers.

Since the controversy narrows down having regard to certain subsequent events briefly stated the facts are that in the application filed by the petitioner society it is claimed that the petitioner society is the absolute owner of the property admeasuring Ac.7-30 gts 42 square yards in Sy.No.74/6 situate at East Marredpally, Secunderabad having purchased the same under 3 registered sale deeds of even date dated 14-8-1975 from the lawful owners, whereas the contesting respondents herein viz., the respondent No.2 originally and subsequently respondent Nos.5 to 9 who were brought on record after the death of respondent No.2 have encroached the subject land and grabbed the same, hence the application.

After the due procedure as contemplated under the provisions of the Act by issuing a notification originally respondent No.2 and subsequently respondents 5 to 9 who were brought on record after the death of respondent No.2 contested the claim denying about the petitioners claim *inter alia* on various grounds which are not necessary to be referred to at this stage. The fact remains that after an enquiry wherein both sides let in their evidence, the petitioners examined PWs.1 to 3 and marked Exs.A.1 to A.35 and on behalf of the respondents RWs.1 to 3 were examined and Exs.B.1 to B.25 were marked, the court below

did not find favour with the petitioner and rejected the said application mainly on the ground that when once the respondents cannot be said to be land grabbers within the meaning of Section 2 (d) and (e) of the Land Grabbing Act in view of Gazette notification issued under Section 3 (1) of the Andhra Pradesh (Andhra Area) Slum Improvement (Acquisition of Land) Act, 1956 the claim of the petitioner society goes out of the jurisdiction of the special Court under the provisions of the Land Grabbing Act.

Having heard the learned counsel, it is relevant to point out that the respondent No.4 herein has got itself impleaded in the said proceedings, but no allegation has been made by the petitioner society against the said respondent No.4, whereas it is the stand of the learned Government Pleader for respondent No.4-state government that the acquisition is in favour of the government.

Be that as it may, it is pointed out by the learned counsel for the petitioner society that the notification issued under Andhra Pradesh (Andhra Area) Slum Improvement (Acquisition of Land) Act, 1956 was challenged unsuccessfully by the petitioner society and it will be open for the Tribunal to go into the question of title. Therefore, the learned counsel for the petitioner submitted that in spite of the fact that such a notification was issued, the land grabbing Tribunal ought to have gone into the question of title between the petitioner vis-à-vis that of the respondent No.4-state government. In support of his contention learned counsel placed reliance on the judgment of this Court in ***Jonnalagadda Samrajyam v. Registrar, The Special Court constituted under A.P.***

Land Grabbing (Prohibition) Act, 1982^[1] wherein this Court considering the scope of the provisions Land Grabbing Act has held that all such questions can be gone into.

We have gone through the said Judgment, however, the fact remains that at the time when the matter was being considered, notification under Section 3 (1) of the Andhra Pradesh (Andhra Area) Slum Improvement (Acquisition of Land) Act, 1956 was not issued nor the scope of enquiry after such notification came into consideration. It is pertinent to note that the petitioner has never questioned the action on the part of the respondent No.4 government nor it is its case that the state government is a land grabber. Their only grievance was against the respondent No.2 and 5 to 9 who have been named as land grabbers and the relief is sought for against them. Therefore once a notification is issued under Section 3 (1) of the Andhra Pradesh (Andhra Area) Slum Improvement (Acquisition of Land) Act, 1956 and the respondents 2 and 5 to 9 have been issued necessary pattas and their occupation has been

regularized, the very application filed by the petitioner society against them does not require any merit consideration.

Now the only question, which remains for consideration, would be, the question of title in between the petitioner and the state government, whereas no such application was filed by the petitioner society against the state government alleging as land grabber nor any such relief is sought for. Hence, it is not open for the land grabbing court to enquire into such question.

We do not find any merit in the writ petition and the same is accordingly dismissed. However, it is open for the petitioner to take appropriate steps, in accordance with law and seek remedies to establish title, if any, against the state government and such other benefit for which it would be entitled to. It is needless to mention that it is always open for the petitioner to raise all questions and establish its right, title and interest and on raising such questions the same shall be decided unaffected and uninfluenced by any of the findings recorded in this writ petition. We also make it clear that in the event of the petitioner taking recourse to any other proceedings, and till the same are disposed of, pending proceedings shall come to the aid of the petitioner.

(B.PRAKASH RAO,J)

(M.VENKATESWARA REDY,J)

Date: 26-2-2007

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THE HONOURABLE SRI JUSTICE B.PRAKASH RAO

AND

THE HONOURABLE SRI JUSTICE M.VENKATESWARA REDDY

(The order of the Bench delivered by the
Hon'ble Sri Justice B.Prakash Rao)

W.P.No.14577 of 2000

Dated: 26-2-2007

[\[1\]](#) 2006 (5) ALT 690